

P L A N N I N G C O M M I S S I O N

ACTION MINUTES

TUESDAY, September 17, 2002

Chair Mathewson called the meeting to order at 7:04 p.m. at the Twin Pines Senior and Community Center.

1. ROLL CALL:

Present, Commissioners: Mathewson, Torre, Gibson, Feierbach

Absent, Commissioners: Wiecha, Parsons, Frautschi

Present, Staff: Principal Planner de Melo (PP), Associate Planner Swan, Deputy City Attorney Zafferano (DCA), Zoning Technician Froelich (ZT), Recording Secretary Flores (RS)

Chair Mathewson conveyed Commissioner Parsons' apologies for his absence, which was due to a serious illness in his family.

2. AGENDA STUDY SESSION: NONE

3. AGENDA AMENDMENTS:

In the event that there were people in the audience expecting Commission review of the atrium project at 877 Ralston Ave., PP de Melo announced that it is not on the agenda for this meeting but is tentatively scheduled for the first or second meeting in November.

4. COMMUNITY FORUM (Public Comments): NONE

5. CONSENT CALENDAR:

Minutes of August 6, 2002

MOTION: By Commissioner Torre, seconded by Commissioner Gibson, to approve the Consent Calendar.

Ayes: Torre, Gibson, Mathewson, Feierbach

Noes: None

Absent: Wiecha, Parsons, Frautschi

Motion passed 4/0/3

6. PUBLIC HEARINGS:

PUBLIC HEARING - 325 MARINE VIEW AVENUE: To consider a Conditional Use Permit and Design Review to replace the existing St. Marks church roof with a new redesigned roof that includes the addition of a reflected cupola and retains the existing cross. The new building height will be increased from 31 feet to 39 feet. (Appl. No. 02-0022); APN: 040-500-220; Zoned: PD (Planned Development); CEQA Status: Exempt; Frank Gonsalves (Applicant); Roman Catholic Archbishop of San Francisco (Owners)

PP de Melo summarized the staff report, noting that the item was continued from the meeting of August 20, 2002, at which time the Commission asked staff to assess the status of Conditions of Approval on the Parish Center building and the subdivision. Staff reviewed all of the Conditions of Approval and performed a site inspection, and found two outstanding issues relative to the Parish Center building: 1) a vegetable garden has been installed that eliminated some overflow parking spaces, and 2) interlocking decorative paving was not installed in several areas. Staff recommends that these two issues be enforced prior to issuance of building permits for the new roof remodel. Staff believes findings can be made for approval of the CUP to amend the detailed Development Plan for the roof remodel.

Frank Gonsalves, applicant, noted that it is essential that the new roof be completed before inclement weather sets in. He stated that the vegetable garden could be removed if that is the Commission's wish, and that the walks adjacent to the Parish Center were revised in order to save an existing Willow tree. In order to save any of the "hodge podge" that might be created by revising the site plan and to blend in with the existing concrete walks, the landscape architect took it upon himself to revise the paving area. Mr. Gonsalves distributed a before-and-after site plan that illustrated the configuration of the walks. He concluded by saying that he knows that in deliberation, the Commission has the power to condition this application but he trusted that they would extend a helping hand to St. Marks Parish and approve the application unconditionally. Responding to C Torre's question, he could not explain why he did not seek administrative approval for the change after the work had been done. C Gibson asked how much use is made of the gravel parking area and if there is a lot of parking on Marine View and any overflow onto Chesterton. Mr. Gonsalves stated that he believes in the two years that the project has been completed, the parking lot has never been full and the gravel area has never been used. Responding to Chair Mathewson's question regarding the use of cement block for the primary finish rather than what appeared to be wood siding of some sort on the original submittal, Mr. Gonsalves stated that he understood how it could have been confused but that the plans for the Parish Center never included any wood siding.

Chair Mathewson opened the Public Hearing.

PP de Melo reminded Chair Mathewson that the Commission had been provided with two letters that were received the day of the meeting.

Rev. Furtado, pastor of St. Marks church since November 2001, noted that there is no demand for all of the parking spaces during Easter and Christmas, since they have additional services at that time, nor at large funerals, so that it does not seem relevant to have the extra parking spaces. One of his hobbies is gardening and he intends to put some flowering cherry trees and cacti to enhance the environment. He feels that a green patch is always better than something concrete, and that it looks stark even with the vegetable garden.

Robert Barbagalata, 819 Holly Road, tried to put it into context and gave a history of the church, and the decision to fix the roof, noting that the church was there before the planned development. He does not think it is a good idea to say that if you want to put the roof on you have to do something else. He urged the Commission to let the church go ahead with the roof and impose the other items on them if that is what they want, and believes the church will do whatever is required.

Robert Prestidge, 585 Marlin Court, Redwood Shores, supported views of Mr. Barbagalata, stated that he feels the people of the City of Belmont will be better off if the plan is approved and it is essential that the leaky roof be repaired.

Adam Naser, representing the Yaseen Foundation, stated that he had visited with Father Furtado at an interfaith meeting, and he did not observe any irregularities at the church, and believes that some of the comments from the previous meeting have been addressed by the applicant. The roof will not obstruct anybody's views and seems to be fit and appropriate, and recommended approval. Responding to Commissioner Feierbach, he stated that he currently lives at 2845 Flores Street in San Mateo but intends to live at 2518 Ralston.

Ali Nafal, 211 Hiller Street, supported the plans and urged the Commission to approve the project.

C Torre felt that the increase in height could be approved, but felt it important that applicants fulfill the conditions that were provided in previous permits, noting that one tool the Commission has to obtain

compliance with conditions is to withhold building permits. Since she felt it is in everybody's interests to get the roof fixed before winter, she suggested the possibility of requiring St. Marks to post a deposit that would allow them to go ahead and do the work on the roof at the same time they do the work on the paving, so that they would not lose another 2-3 weeks of good, sunny weather.

C Gibson stated that he is not willing to vote to tear out a vegetable garden for two unneeded parking spaces. He feels the Commission needs to exercise a balance between common sense and humanity on one side and the rules and regulations on the other. He is also willing to let the paving block issue go and wants to approve the project unconditionally. He does not believe it is the Commission's mandate to fulfill the enforcement of prior conditions but believes that is staff's job. He feels that the new roof and steeple are quite appropriate.

Chair Mathewson understood that three or four parking spaces are involved but he had no problem with that. He asked if the applicant would be willing to post a bond or put money aside to assure that the pavers will be done. Mr. Gonsalves responded by asking if they are required to go back to the original plan, would they tear down the Willow tree. C Torre stated that she was not suggesting that the tree be removed – she feels the Commissioners are all very glad that the tree was saved -- but the area in front of the Parish Center was part of the design element of the entrance into the Parish Center to make it look like a more welcoming. She asked the Father to speak to the question that was posed

Father Furtado stated that he could not speak on behalf of the Archbishop regarding posting a bond but he understood that the Commission would need some guarantees that the conditions will be fulfilled and he stated that he believed they will be fulfilled.

PP de Melo stated that a separate action would be required if the Commission wanted to remove the conditions of approval applicable to the issues that have been discussed. It is not part of their agenda tonight to remove a condition of approval. It is part of their agenda tonight to fulfill obligations of conditions of approval. Knowing that the rainy season is coming, if the Commission were to approve the project and allow the applicant to pull permits for the roof, staff could come back at a separate meeting, while they are working on the roof, to clear up the administrative work related to removing these conditions of approval. Commissioner Torre asked for the legal opinion of the City Attorney. DCA Zafferano stated that the issue has been complicated by the inclusion in the proposed approval of the CUP for the roof an additional condition that says they will do these things in a certain manner. Normally, enforcement of conditions of prior approvals is handled as a code enforcement action either by staff or through the attorney's office. He agreed that if the paving and vegetable garden are things Commission wished to modify or remove, they would need to be brought back at a separate time since that issue is not on the agenda. What is before the Commission is whether or not to approve the roof, and upon approving the roof do they wish to add the additional conditions that staff has suggested; i.e., that they can have their CUP approval for the roof but to hold up the building permit until they make these other changes. Or the Commission could simply approve the CUP for the roof and leave the other items for a later day.

C Feierbach asked what happens to the vegetable garden if the church someday gets sold. PP de Melo responded that there were various components to the Planned Development as approved. As it stands, the Detailed Development Plan and Building Permit Plans show that there should be 32 overflow parking spaces and the Building Permit Plans show that there should be interlocking paving adjacent to the entrance to the parish center and the church and on the northwest portion of the church. Staff is willing to work with the applicant to modify these conditions of approval but as of today the Detailed Development Plan shows the paving and the gravel. We can work with the applicant to modify that and it will be based on the Commission's vote.

Chair Mathewson expressed concern that changes are already being made to a Planned Development that was approved only four years ago. While there's not a large area that's going to exceed the 30' height, he was concerned that it goes as high as it does. He expressed disappointment in the way it ended up looking based on what he thought had originally been approved.

MOTION: By Commissioner Gibson to adopt the resolution approving a Conditional Use Permit and Design Review to allow construction of a new roof for St. Marks church at 325 Marine View Avenue, with the deletion of the requirements with respect to the paving blocks and garden, and instructions to staff to work with the applicant to modify the conditions of the Conditional Use Permit.

C Torre expressed her concern that the code contains very specific directions about how many parking spaces are required per pew and these tough requirements have been placed on other applicants. She cited the recent application of the Yaseen Foundation where they had to reach an agreement with a neighbor for overflow parking due to a shortfall of parking spaces of between one and three spots. While she likes the vegetable garden, for equity and consistency she believes the garden has to be removed. C Gibson stated that he does not believe the situations are comparable because St. Marks is sitting on a dead-end street that has a lot of parking capacity, and with the passage of time it has become apparent that the issues about parking have not materialized. On the other hand, Yaseen is sitting on a very crowded street. C Feierbach agreed with C Torre in that the Commission has been very strict with the Yaseen Foundation. She believes that the vegetable garden needs to go but suggested that the church could come back in the future with perhaps a modified landscape plan.

Commissioner Gibson's motion failed for lack of a second.

MOTION: By Commissioner Torre, seconded by C Feierbach, to adopt a Resolution approving a Conditional Use Permit and Design Review to allow construction of a new roof for St. Marks church at 325 Marine View Avenue, with the removal of Planning Division Condition #3, which related to installing interlocking textured paving and removing an existing vegetable garden, and asked staff to work with the applicant to return to the Commission with modified conditions within the PD District that would allow for the tree remaining in place and include interlocking textured paving in front of the Parish church and which would require removal of the vegetable garden.

Ayes: Torre, Feierbach

Noes: Gibson, Mathewson

Motion failed 2/2/3

PP de Melo proposed that the Commission allow staff to research the issue related to how much parking is required for this particular use as part of the motion. C Feierbach commented that the vegetable garden needs to go since it is not part of a normal landscape plan. It would be fine if they could cover it. She does not believe it is fair to other applicants to allow them to do whatever they want with the landscaping.

MOTION: By Commissioner Mathewson, seconded by Commissioner Torre, to adopt a Resolution approving a Design Review and Conditional Use Permit to allow construction of a new roof at St. Marks Church at 325 Marine View Avenue, deleting Condition #3 and requesting staff to research parking requirements, which may end up with more or less parking, which may end up with the vegetable garden area if it is less parking, and dealing with the pavers and negotiating for the life of the tree, and bringing that back to the Commission while still allowing the roof to go forward.

Ayes: Torre, Gibson, Feierbach

Noes: Mathewson

Motion passed 3/1/3

Chair Mathewson noted that the item may be appealed to the City Council within ten days.

Due to the concern of arrival of inclement weather, Mr. Gonsalves asked for permission to start demolition within the 10-day waiting period. PP de Melo stated that they can apply for their building, roofing and demolition permits the next day but if an appeal is filed, it stays all action related to the item.

Chair Mathewson called for a recess at 8:16 p.m. Meeting resumed at 8:30 p.m.

MOTION: By Commissioner Gibson, seconded by Commissioner Torre, to close the public hearing on the last item. Motion passed.

PUBLIC HEARING - 1600 CHULA VISTA DRIVE: To consider a Single-Family Design Review to add a 565 square foot second floor addition to an existing 1,710 square foot single-family residence for a total of 2,275 square feet that is below the zoning district permitted 3,500 square feet; (Appl. PA 2002-0027); APN: 045-121-130; Zoned: R-1B (Single-Family Residential); CEQA Status: Exempt; David and Terri Plack (Owners/Applicants)

ZT Froelich summarized the staff report, recommending approval and noting that the applicant and staff are available to answer questions from the Commission.

Applicant Terri Plack, 1600 Chula Vista, was available to answer questions from the Commission. Acknowledging a letter received from a neighbor, C. Torre asked the applicant if they had considered flipping the linen storage, bathroom and master bedroom area, which would have the effect of moving some of the bulk further toward the garage and not putting the bedroom on the side of the neighboring property. Ms. Plack responded that the plans were drawn up as they were and they liked the plans as they were drawn. They informed their architect that: 1) they did not want a square box on top of the house, but wanted it to have some dimension and character. 2) for the sake of privacy for the neighbor, they thought it would be a good idea not to put any windows on the bedroom side facing the neighbor. As far as turning the addition completely around, that possibility was not brought to their attention until just recently, and she was not comfortable with the idea that their bathroom window would be facing the neighbor's property.

Responding to a question from absent Commissioner Frautschi, read by C Feierbach, Ms. Plack stated that they will be adding landscaping when the construction is finished.

Responding to Chair Mathewson's questions, Ms. Plack stated that there will be a skylight in the bathroom, they wanted slit windows but decided against them due to consideration of the neighbor's privacy, and the trellis will be landscaped with a climbing vine such as Bougainvillea or Wisteria. Chair Mathewson felt that the neighbor's letter suggests that the applicant hadn't responded to his concerns. Ms. Plack stated that the neighbor and his daughter came to the neighborhood meeting and shared their concerns, but the applicant was not aware of their rights and was taken aback by their request. She stated that they totally respect the neighbor's need for privacy and feels that they addressed that issue by changing their plans for windows. She added that the neighbor was aware of that before they came to the meeting. Chair Mathewson confirmed with staff that the Commission has the ability to condition the approval to give staff latitude to work with the applicant to provide a screening addition.

Stephanie Bertollo, 900 Beach Park Blvd, #147, Foster City wrote the referenced letter behalf of her parents, who live at 1604 Chula Vista. She pointed out that they fully respect the right and need of their neighbors to add onto their home, however, they feel it would be detrimental to their property and at their expense. She showed overheads that showed their existing view of the neighbor's home and the projected view of a 25' vertical wall mass. She stated that she expressed the same concerns at the meeting at the Plack's home and in the memorandum. She stated that her parents and a neighbor across the street denied receiving a notice that the applicant stated was mailed in May. If they had received that notice, the same concerns would have been brought forth at that time. She met with Planning staff and expressed the same concerns. She does not believe the applicant has addressed their concerns since they are the same exact plans that they had voiced concerns with originally. She read from Section 13.1 of Design Review, and stated that that is the basis of their argument, and their concern is with the placement of the addition. She added that all but one of the second-story additions on property similar to this layout in the area are over the garage, the exception being 1608 Chula Vista, which is next door to her parents and which is over the main living space. With the proposed addition, 1604 Chula Vista will be the only property to be sandwiched in between two second-story additions. She believes that the addition at 1608 is completely out of character with all the other second-story additions in the area due to its location over the main living space. She envisions a time when the applicant could apply for a building permit to add windows, get interviewed for Title 24 energy compliance ingress/egress requirements not subject to neighbor notification and planning staff initial review. She questioned the intent of the neighborhood outreach; is it just a protocol for something or if its actually utilized in the review process? She discussed at length the applicability and utilization of Sections 13.5.3 and 13.3.4 and had asked where it was written within the ordinance or department policy that Section 13.5.3 was not applicable for single-family homes, and said she was told by staff that it's not the fact that they are not applicable, but the fact that historically they have not been used

in review. She feels there is nothing that specifically addresses homes such as her parents and their neighbors on relatively flat lots and asked if it could not follow that the Commission could utilize the principles of Section 13.5.3 in their decision-making process. In summary, she stressed to the Commission the concerns of her parents on the potential/probable negative detrimental effect to their property.

Walt Bertollo, 1604 Chula Vista, confirmed that they did not receive the May 7th letter nor did the neighbor across the street. He then quoted from a letter in opposition to the proposed plan from James and Lois Jones of 1605 Chula Vista. Chair Mathewson confirmed with PP de Melo that a copy of that letter had not been received by staff or the Commission.

Charles Borden, 1601 Chula Vista, directly across the street from the Placks, spoke about the precedent being set in the neighborhood by the addition of second stories and feels the larger houses will increase the value of his house. He felt that by setting the addition back off the street the Placks had achieved their goal of avoiding the box concept and that it will look very nice from the street view.

MOTION: By Commissioner Feierbach, seconded by Commissioner Torre, to close the public hearing. Motion passed.

In order to assist the Commission in addressing the issues raised by the Bertollos, PP de Melo reviewed the history of the City's Design Review process, what ordinance changes were made, why they were made in terms of adding the single-family Design Review standards, and the section on the principles to be followed and neighborhood outreach. He stated that the Commission could choose to accept staff's recommendation – staff believes that the six criteria have been made in the affirmative – and can add conditions of approval if they approve the project. He concluded by stating that the item is an opportunity for the Commission to review the project in total.

Responding to C Feierbach's questions, PP de Melo stated that 1) there are approximately 15' between the structures on the subject property and 1604 Chula Vista; 2) the Commission can condition their approval such that there would be some screening, they would need to be specific as to the type of screening, and the applicant would need to be agreeable to the condition; and 3) there is no mechanism to prevent someone from adding windows in the future. He added that if it were a Floor Area Exception project and there was that specific finding related to privacy, then it could be a condition of approval, but there is no specific finding that targets privacy or private views for Design Review.

C Gibson stated for the record that he had visited the Plack home and looked around the back and side of the property. Mr. Plack explained to him that placing the addition over the garage would not work because the stairway wouldn't work, it would wipe out a room, and it would look ugly. C Gibson felt that his points were well taken. He agreed that the addition as proposed will negatively affect the neighbor's property but there are no zoning provisions that guarantee that a new development will not have a negative effect on neighboring property. He felt that the question is whether there is an entitlement that the neighbor would be deprived of in this case, and recalled a similar project on Somerset where a neighbor would lose his view of the sky. Staff explained that the finding about view refers only to public views, and the concept of views is typically long-rang views of hillsides and so forth. He would be in favor of a condition requiring landscaping to ameliorating the neighbor's view. He feels that, except for the neighbors view problem, this is probably as good or better than any other second-story addition on the street.

C Torre asked the applicant if she is willing to commit to a certain number of trees along that side of the house. Ms. Plack responded that she would talk to a landscape architect to see what they could come up with. Since she has the intention of landscaping she would not object to that condition.

With the consent of the Commission, Chair Mathewson reopened the public hearing so that Ms. Plack could make additional comments.

Ms. Plack stated that she was not prepared for this and felt overwhelmed by it; she had no intention of upsetting her neighbors. and does not want there to be any hard feelings. She added that she feels that the views from their houses are out the back windows, not the side windows, since the side windows all face each other's homes. She feels it really is not the neighbor's view window that will be impacted but it is on the side of their house.

Ms. Bertolio asked if the Commission could take into consideration Section 13.5.3, Principles to be Followed, in the review of this single-family residential application because it is not specifically stated that they cannot. She did not feel that the criteria of those findings in 13.3.4 address single family additions on flat lots. She also questioned why they could not make a condition in relation to the windows. She believes this is in the preliminary stages of review, when the issues should get hashed out, and did not feel that any answer was given as to why that cannot be. It is her belief that the purpose of Design Review is to insure compatibility with adjoining structures and she would like to know how this addition is compatible with their adjoining structure. She too feels awkward and stated that there is nothing personal, but we need to try to insure our own right as property owners as well. Regarding the applicant's comment about the view windows, she stated that there are four windows on that side that are in the main strip of living space. The bedrooms are in the back, there's one window on that wall, then there's the three large windows in the living room/dining room combination area, so she believes that their idea that that their main living space and only "view" is reasonable.

MOTION: By Commissioner Torre, seconded by Commissioner Gibson, to re-close the public hearing. Motion passed.

Chair Mathewson asked DCA Zafferano to discuss the difficulties with including a condition to prevent the addition of windows. DCA Zafferano noted that the relevant sections of the Single-Family Design Review are listed in the staff report. He stated that if the Commission wishes to add a condition, there needs to be a nexus between the criteria that the Commission has to make and the condition that it seeks to impose. Staff's point has been that the six criteria to be met do not reference privacy or private views of the neighbor. As an example, the neighbors who are objecting to the addition might in the future choose to tear their house down and leave it as a vacant lot, in which case the condition to not have any windows there might not make any sense. There are all kinds of other developments that could occur in the neighborhood that make it difficult for the Commission to find a nexus between these criteria and the permanent deletion of windows. Chair Mathewson confirmed that the criteria to be followed are those sections A through F of Section 13.3.4. PP de Melo added that staff has typically incorporated the principles to be followed in the review of other types of projects as well. When the Council approved the single family Design Review standards, this is what they enacted. The main focus was hillside and construction but they didn't limit it to just hillside areas. They crafted an ordinance that required additions of 400 square feet or new single-family homes citywide.

C Feierbach added that the reason the Design Review was made is that people complained that when they would wake up in the morning to a caterpillar ready to begin excavation it would be a surprise, they didn't like it and it was too late to say anything. The reason the architectural design was not included was that people in Belmont want to have their own individual design; it is essentially the spirit of the community to do that and that's why it's not that restrictive.

Commissioner Torre commented that she is very sympathetic to people's concerns about privacy but Belmont is a city where there are many small lots with one-story houses on them. They are zoned to allow up to 3500 square feet and the way those properties are going to be expanded is by going up because many of the lots are not big enough to go sideways. She suggested that if people are concerned about privacy issues, becoming active in the General Plan update is something they might want to consider. She does not believe that the citizens of the City would want to not allow people to add a second floor. So, although she thinks it is regretful that the sky in the neighbor's view is not going to be there, she believes it is appropriate for the applicant to be allowed to go forward with the project. She had no difficulty saying that this project in mass and proportion and use of materials is compatible with other properties in the vicinity.

Chair Mathewson generally concurred. He would put on his Design Review "wish list" that second-story additions have stepbacks on top of the setbacks so that there is an inset on the 2nd story.

C Gibson noted that he was having trouble tying the landscaping requirement into the six criteria. DCA Zafferano confirmed that it does not have to specifically tie to one of the criteria since the applicant has said she is amenable to the requirement.

MOTION: By Commissioner Feierbach, seconded by Commissioner Torre, to adopt the Resolution approving the requested single-family Design Review, subject to the conditions of approval attached. The applicant shall work with the staff of the Community Development Department to

develop a landscape plan for the side property line to provide a screening mechanism between 1600 and 1604 Chula Vista.

Ayes: Feierbach, Torre, Gibson, Mathewson

Noes: None

Absent: Wiecha, Parson, Frautschi

Motion Passed 4/0/3

Chair Mathewson noted that the item may be appealed to the City Council within ten days.

Chair Mathewson called for a break at 9:35 p.m. Meeting resumed at 9:40 p.m.

PUBLIC HEARING - 1613 BELBURN DRIVE: To consider a Single-Family Design Review and Tree Removal Permit to remove 295 square feet of the existing 1,804 square-foot single-family residence and construct a 1,010 square-foot addition for a total of 2,519 square feet that is below the zoning district permitted 3,403 square feet; (Appl. 2002-0036); APN: 044-325-020; Zoned R1-C (Single-Family Residential); CEQA Status: Exempt; John Stewart (Applicant); Terry and Carol Greiner (Owners)

PP de Melo summarized the staff report and stated that staff believes that all findings can be made to approve the single-family Design Review and that all factors have been addressed to approve the tree removal permit. He added that South County Fire is amenable to removing Condition IV.C.4, which required provision of a firebreak.

C Gibson asked how large a 15-gallon tree would be. PP de Melo responded that it would depend on the species. He added that staff has a few concerns about the entire components of the arborist's report with regard to the mitigations, but in terms of what is required by the Tree Removal Ordinance, the Commission is allowed to require mitigation of up to 3/1, or they can require that fees be paid to the Tree Planting Fund.

Terry Greiner, applicant/owner, stated that he is currently residing at 771 Prairie Creek Drive in Pacifica, but he considers 1613 Belburn Drive his home. He moved there when he was three years old and since his parents passed away he plans to move back into it. Reading the arborist's report, he feels that the ordinance can be interpreted two different ways. It's basically when you measure the diameter of the tree you measure 4 ½ feet off the ground, where the diameter of the tree is 16 inches. But from about 3 ½ to 4 feet, there is a branch that is 9-inch diameter but to him there is no branch at 4 ½ feet. But if the Tree Removal Permit is granted, he is willing to replace it 3/1, and had thought about using some type of birch tree. He does plan to landscape and replace the sod in front, the drawings are only in concept. His intent is to fix the house up, move into it and retire there.

John Stewart, architect for the project of 1351 Laurel Street, San Carlos, presented pictures of the subject tree as well as the other screening trees at the back of the property. Mr. Greiner guessed that the privets at the back of the lot are approximately 15-20 feet tall. He added that the magnolia tree blocks all the light to the rear of the house. Nobody currently lives in the house but he does plan to put in new sod. He was thinking that some type of a birch tree would be added.

Chair Mathewson opened the public hearing.

Jill Mondry, 1612 Clee Street, directly behind the subject property, stated that her back yard is the southern magnolia and the privets, which do produce some fruit and flower and are the only trees on the back perimeter of her property. She welcomes neighbors but she also has so much emotion about the ability to rubber-stamp something that is 40 years old, fills up the sky and that has a protected status. She appreciates that they are going to build and it has concerned her that the house has been vacant for three years. However she has no interest in losing a southern magnolia to accommodate two individuals who will be here and gone and the magnolia could still be there for the enjoyment of other people. She understands their desire for sunshine but feels there is another method of getting sunshine other than taking out a

protected tree. She addressed Section 25.6 of the Belmont Tree Ordinance as follows: Factor 1 addresses disease, danger of falling, proximity to existing or proposed structures, interference with utility services or posing a safety hazard. The arborist's report says that none of those exist for the southern magnolia. Factor 2 refers to the necessity to cut, remove, move or excessively prune the tree in order to construct any proposed structure. In this instance, the footprint of the architect's plan does not interfere with the Magnolia tree – she believes there is room for the magnolia. She feels that the heritage tree law is a mandate, and it says that "alternative action shall be fully considered and every attempt shall be made to preserve as many trees as possible." She appreciates that people want to move, retire, change, have the comfort of a new home, and return to a home that was a childhood home, but as this Commission has very clearly shown this evening, they also have to follow the laws and the conditions of doing the upgrades of moving into the neighborhood whether they've lived there before or not. The arborist's report says there is no issue with Factor 3 regarding the topography of the land. Factor 4 says the number of trees existing in the vicinity is a consideration. There is one tree on the side of the front area of this lot, clearly marked on the blueprints in front of each one of the Commissioners, there is a southern magnolia in the back of the house, and the rest of the landscaping or lack thereof consists of over-grown privet hedges. These are not trees. To replace overgrown privet hedges with additional privet hedges does not meet the letter of this law. In the American Heritage Dictionary they are defined as a shrub with a small dark green leaf widely used for hedges. She also looked up magnolia and it does rate as a tree, and it is a stunningly beautiful tree that has been there for over 40 years and, God willing, it will be here for another 40-70 years. She stated that she may be long gone and the person who enjoys her garden will enjoy that same magnolia. She believes that is the point of the heritage tree law. It's not just a whim that the applicant wants a little bit more sunshine in his yard but the trees are protected because if we lose this one and then another one and then another one, it's going to look like Foster City to her. She asked for the assistance of the Commission to preserve the tree and for their consideration of the alternatives.

Architect John Stewart stated that they don't know if it's a heritage tree, but they paid \$1600 for a Tree Removal Permit and gave Ms. Mondry a notice in July so he does not believe the hearing needs to be continued. They might be able to trim the tree but believe it is too close to the structure and they are willing to change the trees to three birch if everyone thinks that a privet is a hedge instead of a tree.

MOTION: By Commissioner Feierbach, seconded by Commissioner Torre, to close the public hearing. Motion passed.

C Feierbach stated for the record that she is the person who introduced the tree ordinance and is very sympathetic with preserving trees. It has been her experience that magnolia trees grow very large and cause a lot of problems, and asked the applicant if the roots of the magnolia tree are lifting up the house. The applicant responded that there are several shallow roots protruding through the ground, one corner of the house is cracked at the foundation but he doesn't know if it was caused by the tree. One of the piers for the floor foundation is also missing but he does not know if a root knocked it over. C. Feierbach feels that the shrubs are out of the question – trees with deep roots would need to be planted there to provide a screen for the neighbor. PP de Melo stated that the Commission could leave it to staff to come up with a final tree selection but require the full mitigation of 3/1 at a 15-gallon size, and staff will consult with the City arborist to potentially come up with an acceptable species to create the best screening possible.

Chair Mathewson confirmed with the applicant that the fence is six feet tall with an open lattice.

C Gibson noted that it was the arborist's conclusion that there appears to be no method of developing the rear yard without removing the tree. The only alternative would be to develop vertically by adding a second story onto the existing residence, and then the question becomes if preserving a tree justifies requiring a second story.

C. Torre commented that there is not an absolute ban against removing protected trees; if a party has a property with the right to go to a certain size house and they can't do it without removing trees, then they can remove those trees. The ordinance allows the Commission to look at a site design and discuss whether the house could be placed differently on the lot, but it is not an absolute protection of trees. She asked staff if the City had ever required a party to build up rather than out in order to save protected trees.

PP de Melo responded that, during his time with the City, he has not seen a situation where an applicant has been required to modify a site floor plan to allow for the saving of one tree. The Commission has taken action in relation to other tree permits where there were 2-4 trees that were to be removed and an

alternative site plan that could be considered. The Tree Removal Permit standards are similar to the design review issues – there are no specific findings related to a Tree Removal Permit. The factors to be considered are described in the staff report. Although the tree in question is in fair condition and does not pose a safety hazard and will not create adverse erosion or drainage conditions, the applicants and the arborist have indicated, and staff in its analysis has ascertained, that the construction of this addition as proposed requires its removal, even though, according to the site plan, the addition will not come dangerously close to affecting the long-term health of the tree. The guidance of the ordinance is not great in terms of findings; it's whether the Commission believes the factors were adequately considered to allow the issuance of the permit and whether the 3/1 ratio is applicable mitigation for removal of this tree. DCA Zafferano interjected that it appears to him that the last sentence of Factor 2) of Section 25-6 authorizes the Commission to consider alternatives to removing trees. He believes that the Tree Removal Ordinance authorizes the Commission to either grant or deny the Tree Removal Permit after looking at the factors and determining whether the applicant has exhausted alternative actions and whether or not they fully considered them. If you think they have, then you can grant the permit and if you think they have not, then you can deny the permit. He did not believe that conditioning the approval of the Tree Removal Permit on other design changes to the house was authorized under the Tree Removal Ordinance – all the Commission is considering is whether or not to remove the tree under the factors that you have to consider.

C Gibson asked the applicant if he had considered a lesser addition in the back that would spare the tree or doing it as a second-story addition instead. Mr. Stewart responded that they actually did two designs for a second-story addition and determined that it was not economically feasible – the proposed plan was a much more cost effective alternative and, given the factor of their age and that they want to live in it the rest of their lives, he was always pushing for a one-story house. Also, with the second-story alternative the factor of the previous application where there would be privacy issues with a second story looking into the neighbor's house.

Chair Mathewson commented that he liked the design and the fact that the setback is being brought back into conformance. He would not second-guess the arborist to say if 16" plus that 9" branch is part of another trunk, and staff has determined that it is a protected tree. Pruning off the half with three feet left for the house sounds like it would damage the tree irreparably. He would request that staff work to get the tree mitigation in place and put on his "wish list" that tree mitigation should be greater than three 15-gallon trees for a tree that has value of approximately \$4,500.

MOTION: By Commissioner Torre, seconded by Commissioner Feierbach, to adopt the resolution approving a Single-Family Design Review and Tree Removal Permit at 1613 Belburn Drive, with specific direction that the 3/1 ratio be fulfilled by trees, not shrubs.

Ayes: Torre, Feierbach, Gibson, Mathewson

Noes: None

Absent: Wiecha, Parsons, Frautschi

Motion passed 4/0/3

Chair Parsons announced that the item may be appealed to the City Council within 10 days.

PUBLIC HEARING - ZONING CODE AMENDMENTS: To consider revisions to Section 4.7.11 of the City of Belmont Zoning Code including incorporation of a "sliding floor area scale" for substandard lots in the HRO-2 (Hillside Residential/Open Space) Zoning District that exceed 30% slope. Planning Commission recommendations will be forwarded to City Council for final action.

(Appl. No. 02-0004); CEQA Status: Special Situations (Section 15183(g)); Applicant: City of Belmont

CONTINUED TO THE 10/15/02 PLANNING COMMISSION MEETING

7. OLD BUSINESS:

621 MASONIC WAY – REVIEW OF FINAL LANDSCAPE/IRRIGATION PLAN

AP Swan summarized the staff report, recommending approval of the Landscape/Irrigation Plan, including Option B as proposed.

Adam Naser, representing the Yaseen Foundation, stated that they have no preference as to which option is chosen by the Commission and repeated the message that had been sent by e-mail that the controversy about the storage area was not intended and was an oversight. They spent \$8-10,000 that will be wasted, but he hopes that now everything is fulfilled.

Ali Nofal, 211 Hiller Street, stated his support of either of the two options provided in the staff report.

Osama Ellicady, National Development Director of Oracle Corporation, stated that they have a number of Muslims who will benefit from the center – they have been waiting for the center to open since November of last year. He added that it is also very important for their interfaith activities with other churches in the community, and asked that the Commission approve the landscape plan and irrigation system and grant the use permit.

MOTION: By Commissioner Gibson, seconded by Commissioner Torre, to close the public hearing. Motion passed.

MOTION: By Commissioner Feierbach, seconded by Commissioner Torre, to approve the Conditional Use Permit, Parking Variance, and Design Review for a religious institution at 621 Masonic Way, with Option B as recommended by staff.

Ayes: Feierbach, Torre, Gibson, Mathewson

Noes: None

Absent: Wiecha, Parsons, Frautschi

Motion passed 4/0/3

8. NEW BUSINESS:

CONSIDERATION OF REQUEST FOR EXTENSION OF CONDITIONAL USE PERMIT GRANTED BY THE PLANNING COMMISSION ON JUNE 6, 2001 FOR 1300 EL CAMINO REAL.

PP de Melo summarized the staff report, noting that the Peninsula Conflict Resolution Center has requested an extension of the Conditional Use Permit that was approved on June 6, 2001.

Noting that the current proposed use is for three non-profits, Chair Mathewson asked staff if the original plan was for non-profits on the second floor and retail on the ground floor. PP de Melo responded that PCRC's intention was to occupy the entire building in a non-profit status with three different tenants – the CUP was approved to remove the retail use in its entirety. Regarding the reason part of the building is still standing, PP de Melo stated that the applicant's demolition permit was to demolish portions of the structure. If the structure were to be raised in its entirety they would be subject to current development required standards in relation to parking, setbacks, height and floor area, but in this case they are proposing a remodel of the site so they are allowed to follow the existing setbacks, building configuration and maximum allowable floor area. Staff anticipates that the existing components of the walls will be incorporated as part of the design and remodel. Responding to C Gibson's question, PP de Melo added that there is no clear guidance as to what constitutes a remodel vs. a demolition but as long as they keep portions of walls it is considered a remodel.

John Seigel, board member of the PCRC, made a brief presentation, stating that in the process of demolition they found that, as a result of the many additions that had been made by the previous owner, the architect's recommendation was that a lot of the structure had to be taken down because of the condition of the piers. The original estimate for the job was \$300,000, but after taking the building apart the bidding is now past \$1 million. They believe they are within a week of getting the permit and the contract is ready to sign, and they are ready to break ground on October 1, assuming that the Commission is agreeable. They are losing approximately \$20,000 a month in carrying costs waiting for this process to finish, and if they cannot build the building it will have to be returned to the bank. He added that it is a major embarrassment to the PCRC because they pride themselves in being efficient in everything they do, and it is also an embarrassment to the County, which has loaned them almost a half a million dollars at a 3% rate. They have several hundred thousand dollars that were committed from the Peninsula Community Foundation and the Packard Foundation and a professional fund-raiser has been retained. They believe it will be a tremendous plus for the City of Belmont and are frustrated by seeing this building in the condition it is in, and really appreciate the support the City has given them so far and hope it will not change tonight. They have about a quarter million dollars in cash and a line of credit that has been extended by their bank for half a million dollars, which is being guaranteed by almost all of the board of directors.

Chair Mathewson asked staff what the time limit is for completing plan checks and issuing the permit. PP de Melo stated that he could not speak for the Building Division, but knows that when the project first came through there were a lot of issues that the applicant has taken great pains to whittle down. He has not seen the submittal that was provided today but the applicants are indicating that they will be ready to pull permits within the next week or two but he would have to check with the Chief Building Official.

MOTION: By Commissioner Torre, seconded by Commissioner Gibson, to approve extension of the Conditional Use Permit for 1300 El Camino Real for one year from the date of its expiration.

Ayes: Torre, Gibson, Feierbach, Mathewson

Noes: None

Absent: Wiecha, Parson, Frautschi

Motion passed 4/0/3

9. REPORTS, STUDIES, UPDATES AND COMMENTS

PP de Melo reminded the Commission of the e-mail that they received on September 12th from the City Clerk's office in reference to the following study sessions:

September 24th, Emmett House Field Trip

October 19th, tour of various projects throughout Belmont

October 29th Joint Meeting at 7:00 p.m.

Regarding the hillside "sliding scale" discussion that is scheduled for the October 15th meeting, PP de Melo ascertained that Commissioner Torre will not be able to be there and two Commissioners will have to recuse themselves. It may be moved to the first Planning Commission meeting in November which will be held on Wednesday, November 6th as Tuesday is Election Day.

Chair Mathewson announced that Thursday, September 19th, is groundbreaking for Fire Station 14 at 5:00 p.m. at 911 Granada.

10. ADJOURNMENT:

The meeting adjourned at 10:55 p.m. to a regular meeting on October 1, 2002 at 7:00 p.m. at Twin Pines Senior and Community Center.

Craig A. Ewing, AICP

Planning Commission Secretary

*Audiotapes of Planning Commission Meetings are available for review
in the Community Development Department*

Please call (650) 595-7416 to schedule an appointment.